

**ORDINANCE NO. \_\_\_\_\_**

AN ORDINANCE REPEALING SECTION 4-12-30, IDAHO FALLS CITY CODE AND ENACTING CHAPTER 8, TITLE 4, OF SAID CODE; PROVIDING FOR LICENSING OF DOOR-TO-DOOR SOLICITORS; PRESERVING AUTHORITY TO PROSECUTE UNDER PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF IDAHO FALLS, IDAHO THAT:

**Section 1. Repeal of Idaho Falls City Code Section 4-12-30.** Section 4-12-30 of the City Code of the City of Idaho Falls is hereby repealed in its entirety.

**Section 2. Adoption of Chapter 8, Title 4, Idaho Falls City Code.** Chapter 8 of the City Code of the City of Idaho Falls is hereby enacted as follows:

4-8-1: **PURPOSE:** Residents of City of Idaho Falls have a substantial interest in protecting their personal safety, well-being and privacy, as well as the right to provide or receive information regarding matters of personal belief, political or charitable activities and goods and services lawfully in commerce. The City has a substantial interest in protecting the well-being, tranquility, personal safety and privacy of its residents, which includes the ability to protect citizens from unwanted intrusions upon residential property. The City also has a substantial interest in protecting residents from fraud or otherwise unfair consumer sales practices and criminal activity. The City recognizes that the substantial interests listed above must be balanced against the rights of those who are regulated by this chapter. Based on the collective experiences of City elected officials derived from regulating business activity, protecting persons and property from criminal conduct, responding to citizen inquiries regarding door-to-door solicitation, the experience of law enforcement officers and those affected by door-to-door canvassing and solicitation, as well as judicial decisions outlining the boundaries of Constitutional protections afforded to persons seeking to engage in door-to-door solicitation, the City adopts this Chapter to promote such interests.

4-8-2: **UNLAWFUL DOOR-TO-DOOR SOLICITATIONS:** It shall be unlawful for any person to:

- (A) Engage in any door-to-door solicitation without a valid door-to-door solicitation permit issued by the City Clerk;

- (B) Engage in any door-to-door solicitation without prominently displaying an identification badge provided by the City Clerk;
- (C) Engage in any door-to-door solicitation at a residence which has a “No Solicitors Allowed” or other similar sign conspicuously posted at or near the primary entrance of the residence where such solicitation is made;
- (D) Engage in door-to-door solicitation outside the hours permitted under section 4-8-7 of this Chapter;
- (E) Deliver an application for a door-to-door solicitation permit to the City Clerk containing any substantial misrepresentation or omission of material fact; or
- (F) Make any misrepresentation of material fact or commit any fraudulent act during any door-to-door solicitation.

4-8-3: DEFINITIONS: For the purposes of this chapter, the following terms shall have the meanings ascribed below:

**DOOR-TO-DOOR SOLICITATION:** Soliciting orders or donations for the sale of goods, wares, merchandise, subscriptions or personal services, without first having secured the permission of the owner or occupant of the residential dwelling where such solicitation is undertaken. The term “door-to-door solicitation” shall not include activities in which all proceeds are paid to one or more non-profit organizations currently certified under sections 501(c)(3), (4) and (8) of the United States Internal Revenue Code, as the same presently exists or as may be amended hereafter. The term “door-to-door solicitations” does not include solicitations for the purpose of supporting a school-sanctioned activity sponsored by a publicly owned or chartered school or other educational institution whose principal business office is located within Bonneville County. Religious proselyting and political campaigning are not considered door-to-door solicitations.

**HEARING OFFICER:** An objective, unbiased individual appointed by the Mayor who shall decide questions brought on appeal by applicants regarding the denial of an application or suspension of a permit under this chapter.

4-8-4: **APPLICATION FOR DOOR-TO-DOOR SOLICITATION PERMIT:** Each individual desiring a permit to engage in door-to-door solicitations shall file his or her application with the City Clerk. The application shall be in such form as may be determined by the City Clerk and shall be accompanied by a copy of the applicant’s current driver’s license, military identification card or other reliable form of photo identification. Upon completion of such application, delivery of the applicant's fingerprints in accordance with section 4-8-5 hereof and payment of a permit fee of \$40.00, each eligible applicant shall be issued a permit and an identification badge containing a photograph of the applicant. Such permit shall be issued or denied within five (5) business days after the date the fully completed application form and permit fee are submitted to the City Clerk.

4-8-5: FINGERPRINTS AND BACKGROUND CHECK: Concurrently with the application for a permit, the applicant shall provide a clear and legible set of fingerprints and shall authorize the City to obtain criminal history information from the Idaho State Police and the Federal Bureau of Investigation. Pursuant to Idaho Code § 67-3008, and Public Law 92-544, the City may submit such fingerprints and required fees to the Idaho State Police, Bureau of Criminal Investigation along with a request for a criminal records check of state and national databases. The submission of fingerprints and information required by this section shall be on forms prescribed by the Idaho State Police. The City may receive and use criminal history information from the Idaho State Police and the United States Federal Bureau of Investigation solely for the purpose of evaluating the applicant's fitness for a door-to-door solicitation permit. No further dissemination or other use of such fingerprints or criminal history information shall be made, except as otherwise permitted by State or Federal law.

4-8-6: ELIGIBILITY FOR PERMIT: No applicant shall be issued a permit if:

- a. The applicant has been convicted or granted a withheld judgment for any felony.
- b. The applicant has been convicted or granted a withheld judgment for any misdemeanor burglary within ten years prior to the date of the application.
- c. The applicant is subject to registration as a sex offender under the provisions of Title 18, Chapter 83, Idaho Code.
- d. The applicant has been convicted or granted a withheld judgment for any misdemeanor involving battery or domestic violence within ten years prior to the date of the application.
- e. The applicant has been convicted or granted a withheld judgment for any crime involving the sale, possession, or use of a controlled substance or the unlawful use or possession of drug paraphernalia, within five years prior to the date of the application.

4-8-7: TERM OF PERMIT: Every permit issued under this chapter shall expire on December 31 of the year after the permit is issued, which expiration date shall be endorsed on the face of the permit and the identification badge provided by the City Clerk. The permit fee required under section 4-8-4 hereof shall be payable in full regardless of the time of year in which the permit is issued.

4-8-8: HOURS OF DOOR-TO-DOOR SOLICITATION: Door-to-door solicitation, as permitted by this chapter, shall be allowed only between the hours of 9:00 a.m. to 8:00 p.m. of the same day. No solicitation shall occur on Sunday or any legal holiday.

4-8-9: SUSPENSION AND REVOCATION: A permit may be temporarily suspended by the Chief of Police or his designee if it is determined that the applicant is not eligible for the permit or has violated any of the provisions of this chapter. In such event, the Chief of Police or his designee shall physically deliver or mail a written notice of such suspension to the address specified in the application. Delivery shall be deemed to be complete upon

physical delivery of the notice to the permit holder or upon deposit of the notice in the U.S. mail, postage prepaid, certified mail, return receipt requested, addressed to the permit holder at the address specified in the application, or such other address which may be delivered in writing to the City Clerk. If the applicant does not file an appeal of the suspension with the City Clerk within five business days after delivery of the suspension notice, then the permit shall be deemed automatically revoked.

4-8-10: **APPEAL PROCESS:** An applicant may appeal a denial of the application, or the suspension of a permit, by providing written notice to the City Clerk within seven business days after delivery of the notice of denial of the application, or notice of suspension. Once the City Clerk receives the notice of appeal, the Hearing Officer shall schedule a hearing within five business days after the appeal is delivered to the City Clerk. The Hearing Officer shall issue a written decision and deliver a copy of such decision to the permit holder within two business days of the conclusion of the hearing. The Hearing Officer shall deliver a copy of the decision to the applicant or permit holder, as the case may be, in the same manner as set forth in section 4-8-8 above. Suspensions by the Chief of Police shall remain in full force and effect until the permit is automatically revoked or the Hearing officer issues his or her decision. All decisions issued by the Hearing Officer shall be final and there shall be no appeal to the City Council.

4-8-11: **PENALTY:** Any person who violates any provision of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine of not more five hundred dollars (\$500), by incarceration in the Bonneville County Jail for not more than thirty days, or both such fine and imprisonment.

**Section 3. Severability.** The provisions of this Ordinance are severable. In the event any provision shall be determined to be void or unenforceable for any reason, such determination shall not affect the enforceability of the remaining provisions.

**Section 4. Preservation of Prior Ordinance.** The sections of the City Code amended or repealed by this Ordinance shall be preserved to the extent necessary to allow the arrest, prosecution and punishment of any person who violates such provisions prior to the effective date hereof.

**Section 5. Effective Date.** This Ordinance shall be effective upon its passage, execution and publication in the manner provided by law.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR this \_\_\_\_\_ day of  
\_\_\_\_\_, 2012.

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Jared D. Fuhriman  
Mayor

ATTEST:

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Rosemarie Anderson  
City Clerk

(SEAL)

STATE OF IDAHO            )  
                                      )ss.  
County of Bonneville        )

I, ROSEMARIE ANDERSON, CITY CLERK OF THE CITY OF IDAHO FALLS,  
IDAHO, DO HEREBY CERTIFY:

That the above and foregoing is a full, true and correct copy of the Ordinance  
entitled, "AN ORDINANCE REPEALING SECTION 4-12-30, IDAHO FALLS CITY CODE  
AND ENACTING CHAPTER 8, TITLE 4, OF SAID CODE; PROVIDING FOR LICENSING  
OF DOOR-TO-DOOR SOLICITORS; PRESERVING AUTHORITY TO PROSECUTE  
UNDER PRIOR ORDINANCE; PROVIDING FOR SEVERABILITY; AND ESTABLISHING  
EFFECTIVE DATE."

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Rosemarie Anderson  
City Clerk